

Planning & Strategy Committee
22 October 2020

Report for Agenda Item | Rīpoata moto e Rāraki take 1

Department: Planning & Development

Title | Taitara Submission on Proposed Plan Change 8 Regional Water Plan

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to present Queenstown Lakes District Council's submission on Otago Regional Council's proposed Plan Change 8 (Discharge Management) to the Regional Plan: Water for Otago (Water Plan), and seek the Committee's retrospective approval of its content. This submission was made to Otago Regional Council on 14 August 2020.

RECOMMENDATION | NGĀ TŪTOHUNGA

- 2 That the Planning & Strategy Committee:
 1. **Note** the contents of this report, including the submission attached; and
 2. **Approve** retrospectively the contents of the attached submission.

Prepared by:



Craig Barr
Principal Resource Management
Policy
5/10/2020

Reviewed and Authorised by:



Tony Avery
General Manager, Planning &
Development
5/10/2020

CONTEXT | HOROPAKI

- 3 The Otago Regional Council (**ORC**) has notified a plan change (**Plan Change 8/PC8**), which for the first time introduces land use rules into its Regional Plan: Water for Otago, for the purpose of managing erosion and sediment through earthworks. The ORC have proposed a new policy and rules. The key new rule (Rule 14.5.1.1) restricts earthworks associated with residential development as a permitted activity to 2,500m² in area, in any 12 month period per landholding, and that no earthworks occur within 10 metres of a waterbody.
- 4 Queenstown Lakes District Council's (QLDC) submission generally supports the overall intent of PC8 and the goal of improving erosion and sediment practices across the region. However, QLDC opposes the plan change because the ORC's proposed new land use rules that manage erosion and sediment from earthworks duplicate the existing erosion and sediment rules in the Proposed District Plan Chapter 25 Earthworks. The Council submission stated that the ORC's plan change is not as effective as the PDP rules, primarily because the ORC rules relate only to residential development, whereas the PDP rules relate to any earthworks. The QLDC submission also suggested that the Council was better placed to manage erosion and sediment resource consent applications and monitoring, because the QLDC has planning and monitoring staff established in the District and have a substantially higher presence in the Queenstown Lakes District than the ORC.
- 5 Section 75(4)(b) of the RMA 1991 requires that district plans must not be inconsistent with regional plans. QLDC does not support the ORC Water Plan sediment from earthworks provisions on the basis that its Proposed District Plan would need to be amended to be not inconsistent with what are considered to be less appropriate provisions to manage erosion and sediment in the Queenstown Lakes District.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 6 In its submission, QLDC sought the following amendments to PC8:
 - a. That the Queenstown Lakes District is excluded from the application of Rules 14.5.1.1 (Permitted Activities) and 14.5.2 (Restricted Discretionary Activities) of the ORC Water Plan, with text added to the ORC Water Plan that clarifies that land use erosion and sediment management is undertaken through the QLDC PDP; or
 - b. That the ORC Water Plan is amended so that the erosion and sediment provisions are consistent with Chapter 25 (and any relevant definitions) of the QLDC PDP.
- 7 QLDC considers that the PDP Chapter 25 Earthworks is a more efficient and effective way to manage erosion and sediment through earthworks, than that proposed by the ORC in PC 8. Key reasons include:
 - a. ORC's new Rules 14.5.1.1 and 14.5.2 apply to residential development only, whereas the QLDC Proposed District Plan rules apply generally to any earthworks activity (as defined in the PDP), including, for example, commercial development or infrastructure-related activities. Earthworks have the potential to adversely

- affect receiving environments regardless of what type of development they stem from;
- b. The new ORC provisions require a resource consent for residential earthworks greater than 2500m², whereas the QLDC rules vary based on the slope;
 - c. QLDC considers that the new ORC rules are too onerous in relation to earthworks on sites with a slope less than 10°;
 - d. The QLDC Proposed District Plan provisions are more advanced through the Schedule 1 RMA process (i.e. in terms of notification, submission and decisions on submissions) than PC8, and QLDC is concerned with the unnecessary duplication of planning processes. Insufficient regard has been to local authorities in the Otago region who are undergoing plan review processes.
 - e. QLDC does not agree with the section 32 report's conclusions that the proposed PC8 provisions take a regionally consistent approach to minimising sediment loss. QLDC does not consider the PC8 provisions to be as effective as those of the QLDC PDP Chapter 25 at minimising the adverse effects of erosion and sedimentation associated with land use and development. It is also noted that the Dunedin City Council has opposed PC8 for similar reasons, because their second generation district plan is also at a similar stage in the Schedule 1 RMA process.
- 8 Due to these reasons, QLDC sought specific changes be made to the Regional Water Plan through Plan Change 8, as noted below:
- a. Amend Policy 7.D.10 as follows:

“The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to ensure water quality is maintained.”

Alternatively, replace Policy 7.D.10 as follows:

“Ensure earthworks minimise erosion, land instability, and sediment generation and off-site discharge during construction activities associated with subdivision, use and development.”
 - b. Exclude the Queenstown Lakes District from the application of Rule 14.5.1.1, delete the rule altogether, or amend Rule 14.5.1.1 so that it is consistent with the PDP Earthworks Chapter 25 and in particular Rules 25.5.11, 25.5.12 and 25.5.19.
 - c. Exclude the application of Rule 14.5.2 from the Queenstown Lakes District, or delete Rule 14.5.2 or amend Rule 14.5.2 so that it is consistent with the matters of discretion and assessment matters set out in the PDP Earthworks Chapter 25.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 9 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the introduction of this proposed plan change is not within the direct control of QLDC. However, QLDC will need to ensure that the Proposed District Plan is not inconsistent with any changes made to the Regional Plan.
- 10 The ORC requested to the Environment Minister that the plan change be called in as a matter of national importance. Therefore, the submissions will be heard by the Environment Court. While this process may be more streamlined for the ORC, it also means that any person or organisation who chooses to make a submission and be heard, will likely need legal representation and engage expert planning or other technical witnesses. Because of the importance of this issue to the Council, officers will most likely recommend the Council attend the hearing in support of its submission.
- 11 The level of significance determines the level of compliance necessary with the decision making requirements in sections 76-78 of the Local Government Act 2002. A higher level of compliance must be achieved for a significant decision.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 12 This matter relates to the Strategic/Political/Reputation. It is associated with RISK00038 within the QLDC Risk Register: Lack of Alignment – Strategies and Policies. This risk has been assessed as having a moderate inherent risk rating.
- 13 The approval of the recommended option will support the Council by allowing us to avoid the risk. This shall be achieved by excluding QLDC from the application of rules that are inconsistent with the land use erosion and sediment management policies and other methods implemented through the QLDC PDP, or amending such provisions so that they are consistent with Chapter 25 (and any relevant definitions) of the QLDC PDP.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 14 There are no financial implications.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 15 The following Council policies, strategies and bylaws were considered:

- Stages 1, 2 and 3 of the Proposed District Plan

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

- 16 QLDC has a statutory obligation to ensure that its District Plan gives effect to any regional policy statement and is not inconsistent with any regional plan. For these reasons the

ORC's proposed change has a bearing on the District Plan, in that if the plan change as notified is approved, the Council will need to amend the PDP Chapter 25 Earthworks provisions as they relate to erosion and sediment management.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

17 The recommended option:

- Will help meet the current and future needs of communities by contributing to maintaining or enhancing water quality;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

| | |
|---|---|
| A | Submission of QLDC on ORC Plan Change 8 |
|---|---|